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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/467,646	12/20/1999	ANTHONY F. HERBST	NEWMRKTP99-4	NEWMRKTP99-4 2648	
7:	590 09/24/2003		•		
PETER K TRZYNA			EXAMINER		
P O BOX 7131 CHICAGO, IL 606807131			POINVIL, FRANTZY		
			ART UNIT	PAPER NUMBER	
			3628		
			DATE MAILED: 09/24/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary    Pariod For Reply   Social Summary   Frantzy Poinvil   Social Social Summary   Social Summary   Social Socied Social Social Social Socied Social Social Social Social Socied Social Socied Social Socied Social Socied Social Social Socied Social Socied Social Socied Social Socied Social Socied Socied Social Socied Social Socied Socied Socied Social Socied Socied Social Socied Socied Socied Socied Socied Socied Socied S					X				
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Frantzy Poinvil   3628	· ·		09/467,646	HERBST ET AL.					
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be writing to a form the provision of 3 CFR 1.138(s). In no event, however, may a reply be timely filed to the provision of 3 CFR 1.138(s). In no event, however, may a reply be timely filed to the provision of 3 CFR 1.138(s). In no event, however, may a reply be timely filed to the provision of 1 CFR 1.138(s). In no event, however, may a reply be timely filed to reply separated above, the measure abstractly period will apply and all sepies St (0) (MoURTh's from the mailing date of this communication of the provision of the pr			Examin r	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Extensions of them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of the may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be smally filled.  Extensions of the may be available under the provisions of the provision of Claims.  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is olosed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) is fare peloted.  Claim(s) is fare ellowed.  6) Claim(s) is fare ellowed.  6) Claim(s) is fare ellowed.  6) Claim(s) is fare objected to.  8) Claim(s) is fare objected to by the Examiner.  10) The specification is objected to by the Examiner.  10)	j ,		l						
Extensions of term pay be articlear or many by an explainable under the provisions of 3 CPR 1.13(a) in no event, however, may a reply be timely filed after SIX (8) MONTHS from the malling date of this communication.  If the period to reply specified above is less than thing (50) days, a reply within the studiony minimum of thiny (30) days will be considered timely.  If the period to reply specified above is less than thing (50) days, a reply within the studiony minimum of thiny (30) days will be considered timely.  Failure to reply within the set or estended part of the reply will by studied, cause the application to become ABANDONED (38 U.S.C. § 133).  Any reply modered by the Office later than there encodes a set the semilar date of this communication, even if timely filed, may reduce any extended patient time adjustment. See 37 CFR 1.704(b).  Status  1) ☑ Responsive to communication(s) filled on 12 May 2003.  2a) ☐ This action is FINAL.  2b) ☑ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☑ Claim(s) 1.51 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5 ☐ Claim(s) 1.51 is/are rejected.  7 ☐ Claim(s) is/are objected to.  8 ☐ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9 ☐ The specification is objected to by the Examiner.  10 ☐ The drawing(s) filed on is/are: a) accepted or b) ☐ objected to by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12 ☐ The oath or declaration is objected to by the Examiner.  Pri rity under 35 U.S.C. § 119 and 120  13 ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to	1		pears on the cover shet with the c	correspondence address					
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3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	2) Notice of I	Oraftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal						

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## **DETAILED ACTION**

1. Regarding the status of the claims in the instant application, the Examiner has made an updated search and found new prior art. The Examiner is obliged to apply the newly found prior art. Thus, the finality of the prior Office action has been withdrawn and a new rejection follows. The Examiner regrets the delayed process of the application. Accordingly, claims 1-51 remain pending in the application.

## Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman (US Patent No. 6,601,044).

As per claims 1-51, Wallman discloses a system and method for enabling individual investors to create and manage a portfolio of securities on a cost effective basis. The system and method customizing an investment fund for a client by performing the steps of receiving at a central computer first and second digital signals from a first and second computer specifying a custom set of investments for a fund; generating at the central computer, digital signals for acquisition of investments

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consistent with the first and second digital signals; entering transaction data at the central computer reflecting the acquisition of the investments and outputting a separate accounting for each set of investments within the fund. Note column 11, line 25 to column 18, line 48. The signals include digital signals for acquisition of derivatives, interest-bearing assets. The system also checks for errors and ensures compliance with specific rules. The system however does not explicitly teach periodic rebalancing or automatic reinvesting of client income and client capital gains using the stored client rules. These are well known strategies in the financial art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wallman by introducing these well known features therein in order provide a flexible system whereby a client can use different investment goals and investment strategies. The system further comprises a client making electronic funds transfer.

## Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP August 7, 2003 FRANTZY POINVIL
PRIMARY EXAMINER
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